

Before the  
COPYRIGHT ROYALTY JUDGES  
Washington, D.C. Public Information Office

JUL 27 2012

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In the Matter of )

)  
Distribution of the 2004, 2005, 2006,  
2007, 2008 and 2009 )  
Cable Royalty Funds )

Docket No. 2012-6 CRB CD 2004-2009  
Phase II

**JOINT MOTION TO INITIATE PHASE II PROCEEDINGS  
FOR THE DISTRIBUTION OF  
THE 2004, 2005, 2006, 2007, 2008 AND 2009 CABLE ROYALTY FUNDS**

The Program Suppliers, Joint Sports Claimants, and the Devotional Claimants (collectively "Movants") hereby petition the Copyright Royalty Judges ("Judges") to initiate a Phase II proceeding to distribute the cable royalty funds for the years 2004, 2005, 2006, 2007, 2008 and 2009 ("2004-2009 Cable Phase II Proceeding"). To this end, the Movants request that the Judges publish a notice of commencement of proceedings in the Federal Register soliciting petitions to participate in the 2004-2009 Cable Phase II Proceeding, as required by the Copyright Act and Copyright Royalty Board ("CRB") regulations. *See* 17 U.S.C. § 804(b)(8); 37 C.F.R. § 351.1(a).

**I. The Parties Have Settled All Phase I Controversies for the 2004-2009 Cable Royalty Funds Distributions.**

On November 4, 2011, the representatives of all of the Phase I categories to which royalties have been allocated in prior cable royalty distribution proceedings ("Phase I Parties") notified the Judges that the Phase I Parties had reached a settlement of all outstanding Phase I controversies in connection with the 2004, 2005, 2006, 2007, 2008, and 2009 cable royalty funds ("2004-2009 Cable Royalty Funds"). *See Phase I Parties' Notice Of Phase I Settlement And*

*Motion For Further Distribution*, Docket Nos. 2007-3 CRB CD 2004-2005, 2008-4 CRB CD 2006, 2009-6 CRB CD 2007, 2010-6 CRB CD 2008, and 2011-7 CRB CD 2009 (Nov. 4, 2011); *see also Distribution Order*, Docket Nos. 2007-3 CRB CD 2004-2005, *et al*, at 1 (Feb. 17, 2012) (acknowledging the Phase I Parties' settlement). Because all Phase I controversies have been resolved as to the 2004-2009 Cable Royalty Funds, commencement of a Phase II proceeding is appropriate.

## **II. Controversies Exist as to the 2004-2009 Cable Royalty Funds.**

Based upon the comments previously filed with the Judges, Phase II controversies over the 2004-2009 Cable Royalty Funds exist in only three categories -- Program Suppliers, Devotional Claimants and Joint Sports.<sup>1</sup> Specifically, Independent Producers Group ("IPG") has indicated that it intends to assert a Phase II claim in each of these categories as to the 2004-2009 Cable Royalty Funds. *See Independent Producers Group Comments On Existence Of Controversies (Phase I And Phase II) Relating To Distribution Of 2004-2009 Cable And Satellite Royalty Funds*, Docket Nos. 2007-3 CRB CD 2004-2005, *et al.*, at 3 (Jan. 19, 2012).<sup>2</sup>

The Movants believe that a hearing will be necessary to resolve these Phase II controversies with IPG and intend to participate fully in such hearings.

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<sup>1</sup> In December, the Judges published a Federal Register Notice in which they stated that Phase II claims had previously been identified with respect to these three categories, and solicited comments "to determine whether there are any controversies, either at Phase I or Phase II, with respect to each of the royalty funds that are the subject of the motions (*i.e.*, cable or satellite 2004 through 2009)." *Distribution of the 2004-2009 Cable and Satellite Royalty Funds*, 76 Fed. Reg. 80969 (Dec. 27, 2011). None of the comments filed in response to this Notice identified any Phase II controversies for 2004-2009 in any of the other Phase I categories -- Commercial TV, Public Television, Music, Canadian Claimants Group, and National Public Radio. Hence, there is no basis for initiating 2004-2009 Phase II proceedings with respect to any of those categories.

<sup>2</sup> Word of God Fellowship, Inc., has also asserted Phase II claims in 2007-2009 in the Devotional category.

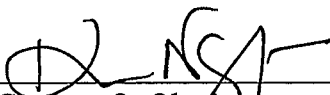
**III. Consolidating the 2004-2005, 2006, 2007, 2008 and 2009 Cable Royalty Funds Into a Single Proceeding is Appropriate.**

Good cause exists to consolidate Phase II proceedings regarding the 2004-2005, 2006, 2007, 2008 and 2009 Cable Royalty Funds into a single proceeding. "Consolidation promotes administrative efficiencies, reduces overall costs, and resolves longstanding controversies in a timely manner." Order, Docket No. 2001-8 CARP CD 98-99 at 5 (February 20, 2002) (consolidating the 1998 and 1999 cable royalty distribution proceedings); *see also Distribution of 1990, 1991 and 1992 Cable Royalty Funds*, 60 Fed. Reg. 14971 (Mar. 21, 1995) (consolidating the 1990, 1991, and 1992 cable royalty distribution proceedings). The Movants anticipate that the same, or closely similar, issues will be presented for all of the 2004-2009 Cable Royalty years. Therefore, judicial economy will be best served through a consolidated proceeding in the instant case.

For the foregoing reasons, the Movants request that the Judges publish a notice in the Federal Register soliciting petitions to participate in the 2004-2009 Cable Phase II Proceeding.

Respectfully submitted,

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### **CERTIFICATE OF SERVICE**

I hereby certify that on this 27th day of July, 2012, a copy of the foregoing Motion to Initiate a Phase II Proceeding, was sent by Federal Express overnight mail, to the parties listed on the attached service list.



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